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International Court of Justice

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OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

6 July 1946

(The Commission convened at 1000 hours.)

COMMISSIONER:

Mr. Rasumov.

MR. RASUMOV: Before we resume our work, I would like to make an announcement. The notice will be published on the bulletin board in the Defense Counsels Information Room.

The Tribunal orders that, first, the application of Dr. Pelckmann dated 28 June that proceedings against the SS be separated is denied. Second, the application to extend the hearing of the Commission is denied. The Tribunal reaffirms their decision that there should be no hearings after 5 July except by special permission of the Commissioners, and one more announcement.

The meeting of the Defense Counsel at 2:00 P.M. will be held in Col. Neave's room.

Are we going to hear this witness for the first time?

INTERPRETER: No, this is a continuation.

MR. RASUMOV: The witness will be reminded that he is still under oath?

WITNESS: Yes.

MR. RASUMOV: Defense counsel, you may proceed.

THE GESTAPO

DR. BEST, a witness, took the stand and testified as follows:

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DIRECT EXAMINATION

BY DR. WEISSGERBER:

Q Was the Reichssicherheitsdienst part of the Security Police?

A Only by way of the budget, in training, and in regard to the civil servant qualifications. The Commissioner of the Reichssicherheitsdienst was not subordinate to the chief of the Security Police but directly subordinate to the chief of the German Police.

Q What were the duties of the Reichssicherheitsdienst?

A They were exclusively the protectors of persons of certain prominent personailities.

Q Since when was the Reichssicherheitsdienst in existence?

A As far as I can recall, approximately since 1934 when the designation, Reichssicherheitsdienst, was applied only after the incorporation of the German Police into the Reich.

Q Was the Reichssicherheitsdienst employed in any police capacity?

A Never.

Q Consequently the Reichssicherheitsdienst had nothing to do with the charges directed by the Prosecution against the Gestapo?

A No. I can only say that on the basis of my own experience, since I myself had one.

Q One last question. How was the Reichssicherheitsdienst composed in regard to personnel and training?

A It was composed of civil servants of the Gestapo.

Q Did it also contain members of the criminal police?

A That was possible but I don't know of any such persons.

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Did the who had been

Q Civil service employees transferred to the Reichssicherheitsdienst, ~~did they~~ remain there or did they return to the Gestapo after their tour of duty?

A It was planned like that but during the war the men remained with their assignment.

Q I am now turning to another point. On the basis of what I have learned from my visits in the different camps, I know that Abwehr Beauftragte(members of the counter-intelligence) and members of the Werkschutz (Protection of Factories) were listed as members of the Gestapo. That's why I want to ask some questions regarding these groups of persons. Since when were the Abwehr Beauftragte in German industry?

A Military counter-intelligence determined such counter-intelligence agents and activities since 1934-1935. Since approximately 1938 and 1939, the Gestapo also appointed such agents so that they also had some connection with the Gestapo.

Q What did the duties of the counter-intelligence agents consist of?

A It was their duty to see that the secret orders were kept and to guard against sabotage.

Q Did the Gestapo only have factual authority or did they issue directives?

A Yes, they were limited only to these specific tasks.

Q In your opinion, could the counter intelligence agents be considered part of the Gestapo?

A No they were neither members nor employees of the Gestapo, but they were the executive employees of the factories.

Q Did the counter-intelligence agents have under them any executive organizations, for instance, the Werkschutz?

A That was up to the individual factories.

Q Could the Werkschutz be considered a part of the Gestapo?

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A No, the Werkschutz had tu guarantee the external security of the factories. Here and there the Gestapo instructed them in the dangers with which the factories might possibly be threatened.

Q In conclusion of my question regarding the organization of the Gestapo, I should like to ask you some very brief questions pertaining to the RSHA. For what purpose was the RSHA created?

A It was created because the chief of the Security Police, Heydrich, desired all those different organizations which were attached to him to be fused as closely as possible. It was a matter of the security office, security police in the Reich Minister of the Interior, second, the office of the Gestapo, thirdly, the Reich Criminal Police Office and fourth, the SD Central Office. The only thing was that the Central Office, Security Police, was on a Ministerial level. The Gestapo office and Criminal office were central executive authorities, and the SD central office was an SS office.

Q Could one say that the RSHA was an organizer of the whole?

A No because every part remained as it had been before even after its incorporation.

Q This fusion, was it based on the desire of power by Heydrich?

A Desire for power or the desire to put all his institutions as closely together as possible.

Q What was your function in the RSHA?

A I was the chief of the office of administration at law.

Q Did the outlines for the decress and laws pass you office or were they drafted in your office?

A If the chief of the security police, or the chief of the German Police, would have wanted to submit a law pertaining to the area of the security police, it would have been drafted in my office. If it did not have anything to do with that, it had to be submitted by other parties.

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Q So you operated on the law creating the Gestapo Amt dated 10 February 1936?

A Yes, the Prussian Minister of the Interior proposed the law and I worked on it from the side of the Gestapo.

Q Can you tell us, in one sentence, which were the officers of the Reich Minister of the Interior who worked on this outline?

A I only recall the name of Ministerial Counsel Dr. Ermet.

Q Did you meet Assessor Dr.Gisevius?

A Yes, Gisevius was employed in the Prussian Ministry of the Interior in 1935.

Q Did you have any meeting either in the line of business of privately with Gisevius?

A Yes, he called on me several times in my office.

Q Dr. Gisevius was heard as a witness in this trial. The asserstions, page 8633 and 8634, that everyone ought to have known what kind of agency he joined, what orders he might look forward to receiving if he entered the Gestapo are made. He said that it would have been very easy for anyone within a few days to find out that the Gestapo was a criminal organization. Did you ever discuss that sort of question with Dr. Gisevius? I am referring to the time when you met him in 1935 or 1936 in the line of duty.

A Gisevius did not express such an opinion in the year 1935. To the contrary, I had the impression that he would have liked to have played a part in the Gestapo and that his sentiments against the chiefs of the Gestapo, first Deihls and then Heydrich consisted of the fact that he would not care to use them in the Gestapo.

Q You have several times discussed these questions with Gisevius?

A Yes.

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Q You never felt that he sort of removed himself from the Gestapo considering it as he does now, a criminal organization?

A No.

Q Did the duties of the Gestapo after 1935 transform themself to such an extent that one might say the Gestapo became a criminal organization during the latter time?

A No, the duties of the Gestapo remained the same at all times. It was divided in two areas of tasks, the first was the executive task of the penal laws so far as they contained political facts. Regarding that the employees of the Gestapo acted as assistant employees of the state prosecution and on an equal basis.

The second part of their duties was the protective police measure to prevent political crimes. This activity of the Gestapo too was regulated in manifold ways. The basic directive was that issued by the Reich President, and they were manifold duties. (Order issued in 1933.)

Protective custody was not/only the protective police measure that was applied, nor was it the one most frequently applied. Entirely outside of the police duties of the Gestapo, later on the Gestapo or individual members of the Gestapo were used to take certain executive measures by order of the state leadership. These executive measures did not serve any police measures, but were/non-police for political purposes. The draft and the working out of the details did not originate with the Gestapo. As an example, I call your attention to the arresting of the 20,000 Jews in the year 1938. That was not a police measure, but a political measure of the state leadership. The Gestapo merely was used for this executive action as, for instance, the military was used for such purposes. Many non-police orders of later times are on the same level. The irrespective atanamous task of the Gestapo, according to my knowledge, goes up to 1940, and it was always executed in the same way as it was during the first years.

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Q A special chapter which I should like to deal with. . .

MR. RASUMOV: How many more questions have you got, Dr. Weissgerber?

DR. WEISSGERGER: Depending upon the answers of the questions, perhaps 6 to 8. It pertains to a complex which I want to touch upon now, the complex of the international cooperation of German police and also of the Gestapo. Was there any cooperation between the German Police and the Police of foreign countries before 1933?

LT. CMDR. HARRIS: Just a minute. I object on the ground that this is entirely irrelevant.

DR. WEISSGERBER: My questions have a good reason because paragraph 6-A-1 of March 13, in regard to the activities and the methods of the organization, is set down as substantial evidence. If I wish to submit to the court in its entirety the volume of the activities of the Gestapo, I must be given an opportunity to talk about the activities of the police and of the Gestapo with forein police, particularly since my questions are also regarding this chapter that prominent members of foreign police were shown all installations of German police, a point which is very significant for the alleged criminality of the organization.

MR. RASUMOV: Alright, you may go on.

BY DR. WEISSGERBER:

Q Was there any cooperation between the German police and foreign police before 1933?

A Yes.

Q In what way?

A Substantially it was a cooperation in the international criminal police commission.

Q This cooperation was continued after 1933?

A Yes.

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Q Where did this criminal police commission reside and who was its chairman?

A It was located in Vienna and the founder of the Commission was President Schober. He was the Chairman.

Q Were there changes in the chairmanship due to the incorporation of Austria into the Reich in 1938?

A The new police president of Vienna, Stienhausel, became the new chairman. When Steinhausel resigned because of illness in 1939, the chief of the German Security Police, Heydrich, became chairman.

Q Were there, in the area of the security police, international cooperation after 1933?

A Yes, besides the criminal police cooperation, there was stated a political police cooperation between the Gestapo and several foreign countries. A conference took place in Berlin in 1939. Representatives from 50 foreign countries participated. It was a political police conference called by the Gestapo. The representatives of the foreign countries who participated were. . .

Q You do not need to enumerate the individual countries.

A I recall a conference in 1939 in which the representatives of Finland, Sweden, Norway, Denmark and Holland participated. It pertained to the sabotage of vessels in the Scandinavian areas.

M. MONNERAY; If the witness is answering to the question of international collaboration with other states, I do not see to what extent those answers are relevant to the criminal activities of the Gestapo. I think the Tribunal ruled already that the fact of the that Germany collaborated with foreign countries has no relevancy at all on this trial here. I think this principle could be applied, also, to the Gestapo.

BY DR. WEISSGERBER:

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Q I now come to the following questions. First, were foreign police officials given an opportunity to be trained or instructed by the German Police? Second, were they given an opportunity to study concentration camps and other installations of the German Police? Perhaps I have two more questions regarding that subject. I am asking these questions on the basis of paragraph 63. I want to give the court an opportunity to decide whether they planned or committed crimes, and whether that was a matter of general knowledge.

MR. RASUMOV: I consider the question of international relations as having nothing to do with the criminal activity of the Gestapo, and I personally agree with the objection of the Prosecutor that it is perfectly irrelevant and I think, Dr. Weissgerber, you better eliminate this question and go on to the other questions.

Just a minute, I have something more to say. I would like to know, Dr. Weissgerber, how much more time are we going to spend for the examination of this witness? It is now five to eleven and I believe we are spending too much time for this witness.

DR. WEISSGERBER: I answered yesterday to the question that I hoped to be through by 11:30. I interpreted the decision of the Commissioner that the questions which I put previously were not to be put again by me.

MR. RASUMOV: That's right.

DR. WEISSGERBER: I beg to ask the court whether or not these questions are admissible.

MR. RASUMOV: Got on and read them, but don't let the witness talk international policy. It really is absolutely irrelevant. Please go on.

BY DR. WEISSGERBER:

Q Did the foreign representatives of the police have an opportunity to become acquainted with all security police measures of the German Police?

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A Numbrous members of foreign police offices have participated in the lecture courses and thexxxxxxxxxxx training of the latter school of the German Security Police. During an extended sojourn they had an opportunity to become acquainted with the work of the security police. They sat in the offices and xxxxxx saw how the employees worked.

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~~DR WERNER BEST - Witness FOR GESTAPO~~
~~DIRECT EXAMINATION - Continued~~

~~COMMISSIONER:~~

~~MR. RASUMOV~~

~~BY DR WEISGERBER:~~

Q Did the police representatives of foreign states make use of the opportunity to visit Concentral Camps?

A Yes.

Q Were you ever assigned the job of accompanying such visitors?

A Not where members of police forces were concerned because it did not fall within my duty, but I have visited with Prof. Dr. Burckhardt, president of the International Red Cross. I have accompanied him.

Q Did you attend the meeting in Munich on November 9, 1938?

A Yes, a work affairs of the security police had taken place in Vienna, in which participated all the Leiters, the criminal police offices, the Gestapo offices and the SD offices. We went to Munich with these people. All of them participated in the celebration of November 9th.

Q Can you say anything about what Heydrich stated at a meeting which he had called regarding the matters which were to happen?

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A Heydrich had been surprised himself by the demonstration which had taken place that evening. I sat with him in his hotel room when a synagogue was burning down about 50 meters from his hotel. That is what was told us of such a demonstration. Heydrich went to Himmler to inform himself and to get orders, and then translated the orders to the civil servants which were meeting there, orders which came over the teletype late that night. Those were the orders he had received from him. He himself seemed to be very angry ~~in front of~~ at the civil servants, as well as ~~regarding~~ also at the action itself, and the fact that he had not been told about it.

Q On that evening had the arrests of the 20,000 troops been ordered already?

A I do not know whether that was contained in the teletype but I believe that teletype contained all the orders of that night.

Q I am making a difference between the lecture given by Heydrich at the meeting of the Gestapo Leiters and the teletype which was dated 1:20 a.m. of that night, and I want you to tell us whether the talk given by Heydrich corresponded to the teletype or whether the teletype contained much stronger measures than the talk of Heydrich.

~~THE COMMISSIONER:~~ MR. RASUMOV:

Well, I think this comparison is absolutely useless.

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~~MR. MONNERAY:~~ M. MONNERAY:

Yes, I think the witness has already answered this question.

BY DR. WEISGURBER:

Q The prosecution charges the Gestapo with having held third degree interrogations. On the basis of your own knowledge can you tell us anything about the directive for that?

A There were no third degree interrogations since there were no first and second degree interrogations. However, Heydrich had issued a decree approximately in 1937 according to which so-called severe interrogations had to take place in certain cases and under certain conditions. I only heard of that decree after it had been circulated since I was an administrative expert who was not asked regarding matters pertining to the executive, but I called Heydrich down and I voiced my scruples concerning this decree. He told me that ~~xxxxxx~~ a high authority had approved this measure and that such measures had also been applied by other countries. He said that the United States worked with light effects. He said further that he had reserved for himself the approval of such measures over Germany so that it would be applied only in the most urgent cases. I personally retained my opinion, and for the

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counter intelligence police where I did have a certain influence I prohibited such measures.

Q I am showing you Document 1531-PS, USA 248. This document enumerates the following severities: Most simple rations, hard bed, dark cell, depriving of sleep, tiring exercises... (~~Here the document is shown the witness.~~)

A (~~Looking on at the document~~ in his hand....) These measures go further than the punitive measures permitted by the rules and regulations of German jails.

LT CMDR HARRIS: Pardon me, may I see that?

(~~The document is then given Lt Cmdr Harris.~~)

~~LT CMDR HARRIS~~:

I object to the reading of these ~~punishments~~ documents in that the same is not complete. Counsel read only two or three... I think he should refer to the contents of the document completely in the record. He has left out the punishment of flogging, and for more than twenty strokes a doctor must be consulted. ~~[illegible]~~ And he also omitted the fact that these are only some punishments, are excessive punishments which may be given among other measures.

With that in the record I am perfectly willing that the witness answer the question.

DR. WEISGURBER: I would have taken up the problem of flogging

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later.

~~Then follows a long pause; and the witness seems puzzled ... doesn't seem to know what is expected of him ... nor what is the question before him.~~

BY DR. WEISSGERBER:

Q Do these penalties go further than the penalties which were used formerly in German prisons. Do they exceed it?

A The first three penalties as far as I can recall were customary in Germany in regular jails, not others.

Q What pre cautionary measures were taken in excess of flogging?

A The chief of the security police had reserved for himself the right to say what number of beatings should be applied.

Q As I recall it, an executive official of the criminal police had to be present, and in certain cases a physician also.

Q In your capacity as the chief of the department administration and law what have you heard of excesses on the part of individual employees.

A My office dealt with disciplinary affairs of the Gestapo and the criminal police. This is how I learned about such cases.

Q To what extent were you informed of excesses?

A The excesses remained within the limits, both of the Gestapo and the criminal police, within the limits which were normal for any large agency. They were punishments by the normal disciplinary measures. If it was a

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matter of transgression of the penal measures the cases were transferred to the ordinary courts.

Q Since when was the Gestapo subordinate to the SS judiciary?

A As I recall it, only since the beginning of the war. I cannot recall it exactly. I just believe so.

Q The prosecution charges the Gestapo with having arrested individuals without reason and thrown them into Concentration Camps. What about that?

A I can answer this only on the basis of the application which was made to me personally. I had nothing to do with the factual dealing with such cases. Applications which got through to me almost never stated that the individual concerned had done nothing, and that he was arrested without any cause. But there was always an attempt to present the facts as being of less importance and that they should be judged more clemently. This was only a small part of the applications which of course were made to other offices too.

Q The directive pertaining to the practical application of the law concerning the Gestapo dated 10 February 1936, contains in paragraph 4 the order, and I quote: "The secret police office administers the State Concentration Camps." It is document 2109-PS. What can you tell us about this legal decree?

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A This decree corresponded with the wish of the chief of the security police Heydrich, but never was executed because Himmler wished to retain the organization as it was. In that organization the Concentral Camps were under a special inspector who in turn was immediately under Himmler.

Q Can you tell us something about the way by which the arrested individuals were brought into the Concentration Camps? Should one make a difference between the inmates of the Concentral Camps?

A Yes, the Concentration Camps did not only contain arrested individuals who were taken into protective custody of the police at the time, but since 1937 or maybe even before criminal police sent criminals into these Concentration Camps also. When at the beginning of the war, that is September 1939, the Concentration Camps held approximately 20,000 inmates, at least half of them were criminal cases, and at the very most one-half were political cases. Again the political cases must be separated into short term and long term arrest ees. As I recall it, one may figure that 80% of all cases were in the camps only for short terms, and about 20% for a longer term. At the same time the jails and prisons of the German judiciary system contained approximately 300,000 inmates. One-tenth approximately were sentenced for political crimes, so that three times as many

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people were sentenced for political crimes by the courts as were by the Gestapo.

Q Was the Gestapo concerned in the transfer of criminals into the Concentration Camps?

A No, that was the sphere of the Reich police office.

Q The protectiv e custody orders were issued by way of AMT V?

A Yes.

LT CMDR HARRIS:

You mean -- in order to make the record clear -- you mean in cases of criminal arrests, rather than political arrests?

A Yes, in cases of criminal arrests, Amt V. And Amt V for political arrests.

~~THE COMMISSIONER:~~ MR. RASUMOV:

(~~To defense counsel~~). I would like you to know that you have five more minutes for your examination.

BY DR WEISGURBER:

Q Were these criminal cases characterized in any special way?

A As far as I remember they were called security arrests as opposed to the protective custody arrests.

Q Were the protective custody arrestees ~~ex~~ treated differently? Differently from the security arrestees?

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A Generally I only heard that the criminal cases were employed for labor, than the political arrestees.

Q Do you know anything about the Einstazgruppen?

A Yes.

Q Were these Einsatzgruppen attached to the Gestapo?

A No. They were put together on the basis of the mobilization order for employment by the Wehrmacht. Only after the stabilization of the military situation they took up again the connection with the chief of the security police.

Q Did the employees of AMT IV for an opportunity to participate at the meetings of the Reichkabinett or in themeetings of the Ministerial Counsel for the Defense of the Reich? And could they in this way have been informed of the foreign political functions of Hitler and the narrow circle around him?

A The time which I can testify for, this was not put into practice. Since approximately 1937 no more ~~kkam~~ Reickkabinett meetings took place, and the Reich Counsel for the Defense of the Reich was created only one day before the opening of the war in 1939.

Q When did you hear in your Amt for the first time of the impending Polish campaign?

A At the beginning, when it started.

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Q One question more: Pertaining to the problem of PWs. What do you know about the special formations on the basis of your assignment in France? Special commissions who were to separate in PW camps, racial and political undesirables and to execute them?

A I knew nothing about these matters until I heard them in the record here.

Q Do you know anything about the Bullett decree?

A I learned of it here when I read about it.

Q Did you know the commando order?

A The military governor of Denmark informed me of the commando order. Such a case never occured in Denmark.

Q Do you know the Night & Fog decree?

A I knew of it but it was never applied in Denmark.

DR WEISGURBER:

I have no further questions.

THE COMMISSIONER:

Let's take a 10-minute recess now.

(A short recess was taken.)

~~Resumed after recess.~~

~~DR CAWLIK attempts to talk, and was interrupted by~~

LT CMDR HARRIS:

This is the first time that we had any indication that a member of the SD counsel would call this witness, and I don't see how we can examine him within the allotted time.

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MR. RASUMOV:

~~THE COMMISSIONER:~~ (~~to Dr Gawlick~~): How many questions have you?

DR GAWLIK: About five questions.

MR. RASUMOV:

~~THE COMMISSIONER:~~ What do you want to clear up with these questions?

DR GAWLIK: The prosecution has, in connection with charges against the SD, repeatedly referred to the Red Book by the witness, regarding which Exhibit I have certain questions.

MR. RASUMOV:

~~THE COMMISSIONER:~~ All right, but do it as quickly as you can, please.

By DR GAWLIK:

Q Your book "The German Police" also contains references to the German interior intelligence service. Was the SD part of the police?

A No.

Q Page 38 of your book reads: "This task coincides with the decree as elucidated by the Reich Ministry of the Interior all supporting the security police, which so far is fulfilled by order of the State."

Was it the duty of the SD to support the security police? Was that the purpose and aim of the SD?

A Since these recent organizations frequently changed their ideas of what belonged within their duties this idea of the purpose of the SD has, too, experienced changes. For

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a time one saw his task and wanted to fulfill it. Later the SD dropped the so-called research of enemies, and the SD limited itself to the so-called sphere of life. To make up for that the executive of the Gestapo AMT IV created its own intelligence service.

Q Can you tell the approximate time when this task and aim and goal was transformed?

A For the Inland SD the change occurred with the appearance of Mr. Ohlendorf, who initiated the new line around the time of the publication of my book. Since I left the RSHA around 1940 I no longer had an opportunity to observe any change.

Q It, that is the SD, finally has to investigate (~~and here counsel seems to be reading from the book~~) on political level the work and the connections of the great ideological deathly enemy of national socialism of the German people in order to bring about a straightforward and effecting combat struggle against them....

Is the same true of these passages?

A This task substantially was assigned to AMT VII, which was dissolved after the publication of my book.

Q Do I understand you correctly, you want to say that AMT III never had this duty?

A No, if my memory serves me right, AMT III has made its task the exploration of the German sphere of life.

~~THE COMMISSIONER:~~ MR. RASUMOV:

~~Begin~~ our cross-examination now, please.

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CROSS - EXAMINATION

By LT CMDR HARRIS:

Q We are very short in time, and for that reason I am going to refer specifically to your writings and I hope you will cooperate by answering as correctly and as quickly as you can without hesitation.

What was the date of your first edition "The Deutsch Polizei"?

A 1940.

Q How many editions were published?

A Two editions.

Q You showed the book to Heydrich and Himmler in connection with the first publication?

A Yes, sir.

Q And the second publication ,akes only minor changes?

A Yes, sir.

Q And as a matter of fact the only criticism that Himmler had for the book he thought you were a little bit too outspoken in setting forth the task of the security police?

A I cannot even recall such criticism.

Q Already ... * ** that you had written an article * * * Political Police in the Third Reich for publication in the book by Dr. Hans Frank?

A Yes, sir.

Q And that book was published in 1937?

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A Yes, I think it was an annual publication if I am not mistaken.

Q In any event, do you remember the article you wrote which appeared in the 1937 edition?

A I cannot recall exactly, but they tell me it is 1937.

Q I am going to call your attention to a few quotations from this article to show that the views that you had expressed, the same views in 1936 or 1937, which were made public, and which you then re-expressed in your final publication, and it is a significant fact about this, that when you were making these statements you had a very responsible position in the Reich Ministry of the Interior with respect to the security police. Now, page 420, you discussed the task and missions of the political police. This is what you say: "The task of a political police in the sense of the national socialist conception of this institution has been formulated best so far in Section 1 of the Prussian Law concerning the secret state police of 10 February 1936."

(continued by succeeding reporter.)

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CROSS EXAMINATION (Continued)

BY LT COMDR HARRIS:

Q. The Tribunal knows what that provision is so I won't read it. I continue quoting:

"This formulation also outlines the task of Political Police Systems in other German countries for which this task assignment is to be concluded from the National Socialist conception of a Political Police, since a lega l formulation is mostly missing." You wrote that and that was true, wasn't it?

A. Yes.

Q. Continuing quoting from page 421: "All attempts dangerous to the State are subject to the activity of the Political Police. 'Dangerous to the State' is more than 'hostile to the State' and includes not only undertakings with programs hostile to the State but also all attempts - no matter what their aim - which in their effects endanger the State. Not the State in its outward organic appearance bu the tasks of the leadership in the sense of the National Socialist idea is the object of protection." That was correct, wasn't it?

A. Yes.

Q. No the point to that expression that I want to invite your attention to Dr. Best is this: You recognized, I am sure, the criminality of putting 20,000 people in concentration camps just because they are Jews, don't you?

A. I have expressed this measure as a non-police measure.

BY THE COMMISSIONER:

Q. What do you call a non-police measure?

A. A measure which does not emanate from the police top authority or the police function.

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BY LT COMDR HARRIS:

Q. But you did not answer the question, which was that you do recognize that the placing of 20,000 people in concentration camps just because they are Jews is criminal, don't you believe that?

A. It depends upon whether this question is to be answered by a moral or legal point of view.

BY THE COMMISSIONER:

Answer the question in brief form, yes or no.

A. From our point of view, yes. From the legal aspect I would have to add a sentence.

BY LT COMDR HARRIS:

Q. Go ahead, let us see what your legal attitude is?

A. I stated yesterday that the police law of the National Socialist State can be explained only on the basis of National Socialist Ideal State. Of course this holds true for the law in general, so that if the National Socialist State concept of state is ruling, that question at least must be asked whether such a declaration of will or measure of the state leadership is not the form of law for the member of this state.

BY THE COMMISSIONER:

We do not allow you to make any speech on legal matters. What we want is you to answer the question of the prosecution about the 20,000 people who were put in concentration camps.

A.. It depends upon whom did it and I want to state that the executive organs in any case which could not avoid executing this order at least were in the so-called self-defense of the sense of penal la w.

BY LT COMDR HARRIS:

Q. I am sure that the defense counsel will agree with me that the Gestapo

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or at least the personnel of the Gestapo, were responsible for lining up these people and sending them to the concentration camps where they were murdered. You certainly would recognize that the murder of people simply because they were Jews is certainly criminal, even though it was ordered by Hitler or some person in a high state? Yes, a crime of a responsible person and that is true of ~~xxxxxxxxxxx~~ all of those crimes and the point that I am stressing is that you have on many occasions publicly stated that the purpose of the police in the National Socialist State is to carry out the will of the National Socialist leadership?

A. That is not correct. I have stated that the object to be protected is the state in its National Socialist forms, but that the police is not to be an executive organ arbitrarily selected for any task whether or not it is a police function.

Q. I have just read to you what you said in 1937 and now I'll pass to something else you said. This quotation appears on page 424:
"The duties of the political police and the necessary means for their performance are not chosen freely but are prescribed by the foe. ~~xxxx~~ Just as the operations of an army against the outward enemy and the means to fight this enemy can not be prescribed, so the Political Police also must have free hand in the choice of the means necessary at times to fight attempts dangerous to the State." And two lines, later: "And it thus has the right to take all necessary measures for this fight as long as there are not any expressly contrary regulations." Now this concept of the means which the Gestapo would use in the National Socialist State as an unregulated one is the reason why the Gestapo was authorized to throw people into concentration camps without judicial proceedings and to use third degree interrogations and to take other similar action from time to time?

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A. I ~~xxxxxxx~~ again want to point out that the arrest of 20,000 Jews in November of 1938 was not wanted by the police and was not considered necessary by the police, consequently this phrase which was quoted here does not cover this event at all. What I mean is that the police measures have to be in accordance with the methods of the enemy, for instance, the conspiracy methods, to be able to combat the dangers arriving. It was a matter of course, so much so that I did not think it necessary to mention that the individual employee ~~xxxxxx~~ could not arbitrate, but that a directive of the general kind had to be issued which were appropriate to combat these methods of the enemy.

Q. Yes, but you say we are not talking about the individual member of the police who may have done something arbitrarily we are talking about the Gestapo itself as an organization which is, as you have said in your writings, ~~xx~~ an almost complete ~~text~~ concerning the means which it would use to carry out its tasks and terms for protecting the leadership of the National Socialist State?

A. I do not understand the sense of the question.

Q. I'll read the question again to see if you understand it.

(Question read again in German).

A. Within the framework of orders and directives which were issued through channels.

Q. Let me call your attention to what you said in this article on page 425: "According to kind and purpose the measures taken by the Political Police can logically be subject to a check only by their own channels of administrative supervision." Then follows your explanation of the legal reasons for this statement in Prussia and the other German countries. That was true, wasn't it?

A. Yes, that was the existing State of law. The supervision went to all channels up to and including Hitler.

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Q. So long as the activities of the Gestapo were consistent with the maintaining of Hitler and his group in power, the Gestapo had a pretty generally free hand in political police ~~xx~~ circles within the so-called Third Reich?

A. I again have to repeat, within the framework of orders and directives every area was handled differently.

Q. You say that this provision in the decree that the Gestaop was to administer the concentration camps never came into effect and I want to call your attention to the statement you made in this article. This is what you said on page 430: "The Secret State P olice administers the State Concentration Camps through the Inspector of the Concentration Camps who is affiliated with the Office of the Secret State Police." Do you remember making that statement, Doctor?

A. Yes, it actually was not executed in practice. This was written obviously at a time when the Chancellor of Secret State Police wanted to have the concentration camps subordinate to ~~xx~~ him but it can be proven by many important documents thatHimmler has never fulfilled this wish.

Q. I want to call your attention to this statement which you made in your book: "As long as the police carries out the will of the leadership it is acting legally. Should it overstep the leadership than it is no longer a ~~xxxxxx~~ police matter, but it is ~~xx~~ considered an act of a breach of duty by the police." Do you remember making that statement?

A. Yes, this refers to my theory which is mentioned in the book. That on the basis of the concept of the National Soclialist State right is made when the State leadership with the intention of making a law in a certain sphere voices its will. The will must be present to make police law according to

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which the Police has to act. An individual order referring to a matter which is not a matter of police law does not come within this paragraph.

Q. You also state in your book what the requirements were of police among which you include fitness and membership in the NSDAP or one of its branches. That is correct, isn't it?

A. I do not believe that I have spoken of membership but perhaps only of the fitness for it. As a matter of fact there was no such condition for being employed by the police.

Q. The fact is that these were requirements, weren't they?

A. No, they were not requirements.

Q. Well they are on page 83 of the book. It begins right under large paragraph A.

A. In practice it was not done at that time. Whether at that time it was an actual requirement or only a plan I do not know. Of course I have described the development of the police force the way it was just happening at that time. There are points in this book which merely express the tendency and not the actual state of affairs and I again want to repeat that this book is merely a private piece of work.

BY THE COMMISSIONER:

Q. What do you mean a private piece of work?

A. A theoretical work by my private self.

BY LT COMDR HARRIS:

Q. I want to invite your attention to a quotation on page 109. Before I read I want to ask you if it isn't true that in the various schools that the members of the Gestapo were trained in the National Socialist State ideology and also in the SS concepts?

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A. To the same extent in which it happened in every state school and in every civil service school in Germany. I want to point out that the so-called leader school of the security police, which is the professional school for all new candidates, did not even employ special teachers for criminology and ideology ideas, but the criminology experts also had to teach that on the side.

Q. As a matter of fact, ideology training of the police was handled by the SS?

A. No, not people outside of the police. I do not know whether the people that were already at that school were members of the SS; could only have been a part of it because I have already said that out of 20,000 fit men, 3,000 came under the so-called assimilation decree when war broke out.

Q. The reason I am asking you this is to bring out the fact that irrespective of the conception of the ideology training of the Gestapo members was the same as that in the SS leadership. Isn't that true?

A. Only the new candidates received ideology instruction. The old officials no longer received instruction and that was its larger half.

Q. I'll just read in the record what you said in your book on page 109: " The ideology training of the members of the police is taken care of by and is conducted uniformly by an office of the SS leadership."

That is not a matter of opinion, that is a matter of fact, were you telling the truth then?

A. No. I have read only of a planning that was just coming to life. Himmler wanted the so-called settlement of the SS which at the same time dealt with these proposals of training. Himmler wanted this office to submit

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material for training to the police. When at the the end of May/1940 I left the security police nothing like that had arrived.

Q. I want to ask you questions about this so-called administrative and executive members of the Gestapo. The administrative members performed essential functions for the organization as a whole, didn't they?

A. They have fulfilled the functions which I submitted yesterday. That is to say all functions pertaining to personnel and the real needs of the organization.

Q. The point I am making is that the so-called executive members could not have carried out their functions unless there was somebody to perform the administrative functions?

A. Just like the other officials he has to receive a salary.

Q. It is also true that within the Gestapo men were transferred around from office to office, from function to function?

A. Yes, but only within their qualifications. One could not have the administrative official fulfill the duties of an executive.

Q. Exactly. However, if a man was a member of the so-called border police he could just as well perform executive functions there as in a Gestapo regional office, couldn't he?

A. Yes, that was very possible.

Q. As a matter of fact, there were men transferred back from the border police to other points?

A. No, at least until the outbreak of the war only in one direction. One could not transfer any one away from the border police. Also the Ahwehr of the police remained as is because one could not spare the specialists.

Q. Do you know of any case where a member of the police received disciplinary action because he refused to accept a transfer?

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A. No, I do not recall a single case.

Q. You do not recall what could have happened. Perhaps the worst was that he could have lost his job, was that so?

A. That would have been the normal thing, but if he had taken a demonstrative action police action would have been taken against him.

Q. Did I understand you to say that the members of the border police were taken from the Gestapo itself?

A. No, to the largest extent, partly from the Gestapo people, and partly from new candidates. At the outbreak of the war it was about fifty-fifty.

Q. You knew with respect to this order of the third degree interrogation that the reason it was put into effect was because the various Gestapo offices were carrying out unregulated third degree tactics on their own?

A. No, that could not possibly have been the reason because Heydrich mentioned as a reason to me that during that period conspiratorial associations had been found and in order to discover them it was necessary to catch up to the next man as quickly as possible.

Q. Let me call your attention to Document of 1942 which I want to show you. Perhaps the point of distinction is that it concerned the 3rd degree methods in occupied territory.
This document starts out as follows: "In view of the variety of methods used to date in -- Cracov — — and in order to avoid excesses and also to protect — — — — the commander of the security police and the SD,

Then follow the same regulations which we have been discussing. That looks like they were trying to prevent excesses which had taken place previously in interrogations?

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A. I can not make any statement in regard to that since I had nothing to do with security police since I left.

Q. You did know up to the time you left, that it was common practice to put hardened p risoners in concentration camps together with political prisoners? The Answer is yes?

A. Yes.

Q. And you also know that these hardened criminals who were commonly known as Kapo maintained much of the discip line within the camp by use of brute force on political prisoners, didn't you?

A. No, I knew nothing about it since I was completely ignorant of the organization and administration details inside the concentration camp. I once received a report which was interesting to me around the end of 1937 or the beginning of 1938. I personally saw to it that the former Dr. Miehrendorf

was dismissed from a concentration camp and at that time I have discussed matters pertaining to arrest with Dr. Miehrendorf. . He told me that he had studied philosophy and history in the camp and that he had been doing some writing, a play. His words indicated to me that the inmates of Buchenwald were not being treated badly.

Q. In other words, that is the extent of your investigation of conditions in concentration camps? Since the conditions in concentration camps were the responsibility of the inspector you did not think you had to acquaint yourself?

A. If I would have received complaints which would have made me aware of bad situations I would have, no doubt, attempted - though I neither had the competency or the power, to improve matters, but among all the personal obligations

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which I had received at that time there was no description of such miserable situations from the concentration camp even when release from a concentration camp was petitioned for. I had no motive to mix into these things which did not come within my official duties.

Q. That is the same reason why Heydrich did not investigate conditions in the concentration camps or the members of the Gestapo, because it was not within their jurisdiction?

A. I do not know whether or not Heydrich had at his disposal other records than I had. As I know Heydrich and his temperament I think that for reasons of his influence he would have undertaken something if an opportunity had offered itself. I assume that since the outbreak of the war he did not have the chance to interest himself in these things.

Q. Dr. Best, I want to ask you just one or two additional questions and I am basing these on the very interesting statements you made in your book about the fact that after the National Socialist revolution it was no longer a question of law but a question of faith whether the leadership laid down the right rules and that misuse of this great power would, because of violations of laws of life, be punished in history by fate itself. Yesterday you said that you were right when you wrote that prophetic statement and I take it that in making that statement you acknowledged that the Nazi leadership did violate the laws of life and for that reason fate has brought punishment?

A. Yes, this leadership has sinned against the laws of life and consequently fate has punished.

Q. Your position is, as I gather, that although the Gestapo was a principal, if not the principal agency, for carrying out the will of this leadership it may be excused of responsibility as a criminal organization because after all all it did as an organization was to carry out the will of the Nazi leadership?

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A. No. I am being misunderstood. What I did say was this. I do not wish to argue whether the orders of decrees or directives issued by the leadership are crimes in the sense of the penal code, but it is the first time in history that a sovereign government is being judged on the basis of penal law. The only thing that I wish to bring forth for the executive organs, that the individual executive organs must be conceded the basis of not being punishable because of a state of emergency under which they acted. The Gestapo only was an executive instrument because of those measures which today and from a moral point of view are criticized as crimes, did not arrive from the police authorities but were ordered by higher authorities.

Q. Yes, but were carried out for the purpose of serving the will of the leadership which as you said were the primary tasks of the Gestapo?

A. No, I say that it was a non-police measure which was outside of its real task. They had to fulfill this or could not omit fulfilling it, otherwise they would have paid for it with their lives.

No further questions.

MR. MONNERAY:

I have a few questions, but I think it will be advisable to adjourn now.

THE COMMISSIONER:

The commission will adjourn until to-morrow morning at 1000 hours.

The commission adjourned at 1310 hours.

~~The foregoing is a true and correct transcript of the testimony of Dr. Best taken on 6 April July 1946.~~

~~Reporter (pp.~~

~~Reporter (pp.~~

~~Reporter (pp.~~

Com. B
Take 3 - P. 13
Roberts
6 July 46
Dr. Best

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The foregoing is a true and correct transcript of the testimony of Dr. BEST, taken on 6 July 1946.

Pilani A Ahuna
Reporter (pp. 1-10

Genevieve Bolsi
Reporter (pp. 11-24

Evelyn M. Roberts
Reporter (pp. 25-36

Certified TO:

~~Commissioner~~

Rasumov
Commissioner

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OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL, PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

6 July 1946

(The Commission convened at 1000 hours)

COMMISSIONER:

Mr. Rasumov.

MR. RASUMOV: Before we resume our work, I would like to make an announcement. The notice will be published on the bulletin board in the Defense Counsel's Information Room.

The Tribunal orders that, first, the application of Dr. Pelckmann dated 28 June that proceedings against the SS be separated is denied. Second, the application to extend the hearing of the Commission is denied. The Tribunal reaffirms their decision that there should be no hearings after 5 July except by special permission of the Commissioners, and one more announcement.

The meeting of the Defense Counsel at 2:00 P.M. willbe held in Col. Neave's room.

Are we going to hear this witness for the first time?

INTERPRETER: No, this is a continuation.

MR. RASUMOV: The witness will be reminded that he is still under oath?

WITNESS: Yes.

MR. RASUMOV: Defense Counsel, you may proceed.

THE GESTAPO

DR. BEST, a witness, took the stand, and testified as follows:

DIRECT EXAMINATION

BY DR. WEISSGERBER:

Q Was the Reichssicherheitsdienst part of the Security Police?

A Only by way of the budget, in training, andin regard to the civil servant qualifications. The Commissioner of the Reichssicherheitsdients was not subordinate to the chief of the Security Police, but directly subordinate to the chief of the German Police.

Q What were the duties of the Reichssicherheitsdienst?

A They were exclusively theprotectors of persons of certain prominent personalities.

Q Since when was the Reichssicherheitsdients in existence?

A As far as I can recall, approximately since 1934 when the designati Reichssicherheitsdienst, was applied only after theincorporation of the Germ Police into the Reich.

Q Was the Reichssicherheitsdienst employed in any police capacity?

A Never.

Q Consequently the Reichssicherheitsdienst had nothing to do with the charges directed by the Prosecution against the Gestapo?

A No. I can only say that on the basis of my own experience, since I myself had one.

Q One last question. How was the Reichssichdrheitsdienst composed in regard to personnel and trainin.

A It was composed of civil servants of the Gestapo.

Q Did it also contain members of the criminal police?

A That was possible but I don't know of any such persons.

Q Did the civil service employees who had been transferred to the Reichssicherheitsdienst, remain there or did they return to the Gestapo aft their tour of duty?

A It was planned like that but during the war the men remained with their assignment.

Q I am now turning to another point. On the basis of what I have learned from my visists in the different camps, I know that Abwehr Beauftragt (members of the counter-intelligence) and members of the Werkschutz (Protecti of Factories) were listed as members of the Gestapo. That's why I want to ask some questions regarding these groups of persons. Since when were the Abwher Beauftragte in German indus ?

A- Military counter-intelligence determined such counter-intelligenc agents and activities since 1934-1935. Since approximately 1938 and 1939, th Gestapo also appointed such agents so that they also had some connection with the Gestapo.

Q What did the duties of the counter-intelligence consist of?

A It was their duty to see that the secret orders were kept and to

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guard against sabotage.

Q Did the Gestapo only ha[illegible]ctual authority or did they issue directives?

A Yes, they were limited only to these specific tasks.

Q In your opinion, could the counter-intelligence agents be consider[illegible] part of the Gestapo?

A No, they were neither members nor employees of the Gestapo, but they were the executive employees of the factories.

Q Did the counter-intelligence agents have under them any executive organizations, for instance, the Werkschutz?

A That was up to the individual factories.

Q Could the Werkschutz be considered a part of the Gestapo?

A No, the Werkschutz had to guarantee the external security of the factories. Here and there the Gestapo instructed them in the dangers with which the factories might possibly be threatened.

Q In conclusion of my que[illegible]n regarding the organization of the Gestapo, I should like to ask you [illegible]e very brief questions pertaining to the RSHA. For wat purpose was the RSHA created?

A It was created because the chief of the Security Police, Heydrich, desired allthose different organizations which were attached to him to be fused as closely as possible. It was a matter of the security office, securi police in the Reich Minister of the Interior, second, the office of the Gestapo, thirdly, the Reich Criminal Police Office, and fourth, the SD Centr Office. The onlything was that the Central Office, Security Police, was on a Ministerial level. The gestapo office and Criminal office were central executive authorities, and the SD central office was an SS office.

Q Could one say thatthe RSHA was an organizer of the whole?

A No, because every part remmined as it had been before even after its incorporation.

Q This fusion, was it based on the desire of power by Heydrich?

A Desire for power or the [illegible]ire to put all his institutions as clos together as possible.

Q What was your function in the RSHA?

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A I was the chief of the office of administration atlaw.

Q Did theoutlines for the decrees and laws pass your office or were they drafted in yourr office?

A If the Chief of the Security Police, or the Chief of the German Police, would have wanted to submit a law pertaining to thearea of the securi police, it would have been drafted in my office. If it did not have anything to do with that, it had to be submitted by other partics.

Q So you operated on the law creating the Gestapo Amt dated 10 February 1936?

A Yes, the Prussian Minister of the Interior proposed the law and I worked on it from the side of th[illegible]estapo.

Q Can you tell us, in one sentence, which were theofficers of the Reich Minister of the Interior who worked on this outline?

A I only recall the name of Ministerial Counsel Dr. Ermet.

Q Did you meet Assessor Dr. Gisevius?

A Yes, Gisevius was employed in the Prussian Ministry of the Interior in 1935.

Q Did you have any meeting either in the line of business or privately with Gisevius?

A Yes, he called on me several times in my office.

Q Dr. Gisevius was heard as a witness in this trial. The assertions, page 8633 and 8634, that everyone ought to have known what kind of agency he joined, what orders he might look forward to receiving if he entered the Gestapoare made. He said that it would have been very easy for anyone within a few days to find out that theGes[illegible]po was a criminal organization. Did you ever discuss that sort of question [illegible]th Dr. Gisevius? I am referring to the time when you met him in 1935 or 1936, in the line of duty.

A Gisevius did not express such an opinion in the year 1935. To the contrary, I had the impression that he would have liked to have played a part in the Gestapo and that his sentiments against the chiefs of the Gestapo, first Deihls and then Heydrich consisted of the fact that he would not care to use them in the Gestapo.

Q You have several times discussed these questions with Gisevius?

A Yes.

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Q You never felt that he sort of removed himself from the Gestapo considering it as he does now, a criminal organization?

A No.

Q Did the duties of the Gestapo after 1935 transform themselves to su an extent that one might say the Gestapo became a criminal organization duri the latter time?

A No, the duties of the Gestapo remained the same at all times. It was divided in two areas of tasks, the first was the executive task of the penal laws so far as they contained political facts. Regarding that the employees of the Gestapo acted as assistant employees of the state prosecutio and on an equal basis.

The second part of their duties was the protective police measure to prevent political crimes. This activity of the Gestapo too was regulated in manifold ways. The basic directive was that issued by the Reich President, and they were manifold duties. (Order issued in 1933.)

Protective custody was not the only protective police measure that was applied, nor was it the one most frequently applied. Entirely outside of the police duties of the Gestapo, later on the Gestapo or individual members of the Gestapo were used to take certain executive measures by order of the state leadership. These executiv easures did not serve any police m easure but were for non-police political poses. The draft and the working out of the details did not originate with the Gestapo. As an example, I call your attention to the arresting of the 20,000 Jews in the year 1938. That was n a police measure, but a political measure of the state leadership. The Gestapo merely was used for this executive action as, for instance, the milit was used for such purposes. Many non-police orders of later times are on t same level. The irrespective atanamous task of the Gestapo, according to my knowledge, goes up to 1940, and it was always executed in the same way as it during the first years.

Q A special chapter which I should like to dealwith . . .

MR. RASUMOV: How many more questions have you got, Dr. Weissgerber?

DR. WEISSGERBER: Depending upon the answers of the questions, perha 6 to 8. It pertains to a complex which I want to touch upon now, the comple

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of the International cooperation of German police and also of the Gestapo. W there any cooperation between the German Police and the Police of foreign countries before 1933?

LT. CMDR. HARRIS: Just a minute. I object on the ground that thi is entirely irrelevant.

DR. WEISSGERBER: My questions have a good reason because paragra 6-A-1 of March 13, in regard to the activities and the methods of the organization, is set down as substantial evidence. If I wish to submit to the court in its entirety the volume of the activities of the Gestapo, I must be given an opportunity to talk about the activities of the police and of the Gestapo with foreign police, particularly since my questions are also regardi this chapter that prominent members of foreign police were shown all installa tions of German police, a point which is very significant for the alleged criminality of the organization.

MR. RASUMOV: Alright, you may go on.

BY DR. WEISSGERBER:

Q Was there any cooperation between the German police and foreign police before 1933?

A Yes.

Q In what way?

A Substantially it was a cooperation in the international criminal police commission.

Q This cooperation was continued after 1933?

A Yes.

Q Where did this criminal police commission reside and who was its chairman?

A It was located in Vienna and the founder of the Commission was President Schober. He was the Chairman.

Q Were there changes in the chairmanship due to the incorporation of Austria into the Reich in 1938?

A The new police president of Vienna, Steinhausel, became the new chairman. When Steinhausel resigned because of illness in 1939, the chief of the German Security Police, Heydrich, became chairman.

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Q Were there, in the area of the security police, international cooperation after 1933?

A Yes, besides the criminal police cooperation, there was stated a political police cooperation between the Gestapo and several foreign countries. A conference took place in Berlin in 1939. Representatives from 50 foreign countries participated. It was a political police conference called by the Gestapo. The representatives of the foreign countries who participated were . . .

Q You do not need to enumerate the individual countries.

A I recall a conference in 1939 in which the representatives of Finland, Sweden, Norway, Denmark and Holland participated. It pertained to the sabotage of vessels in the Scandinavian areas.

M. MONNERAY: If the witness is answering to the question of international collaboration with other states, I do not see to what extent those answers are relevant to the criminal activities of the Gestapo. I think the Tribunal ruled already that the fact that Germany collaborated with foreign countries has no relevancy at all on this trial here. I think this principle could be applied, also, to the Gestapo.

BY DR. WEISSGERBER:

Q I now come to the following questions. First, were foreign police officials given an opportunity to be trained or instructed by the German Police? Second, were they given an opportunity to study concentration camps and other installations of the German police? Perhaps I have two more questions regarding that subject. I am asking these questions on the basis of paragraph 63. I want to give the court an opportunity to decide whether they planned or committed crimes, and whether that was a matter of general knowledge.

MR. RASUMOV: I consider the question of international relations as having nothing to do with the criminal activity of the Gestapo, and I personally agree with the objection of the Prosecutor that it is perfectly irrelevant and I think, Dr. Weissgerber, you better eliminate this question and go on to the other questions.

Just a minute, I have something more to say. I would like to know, Dr. Weissgerber, how much more time are we going to spend for the examinatio

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of this witness? It is now five to eleven and I believe we are spending too much time for this witness.

DR. WEISSGERBER: I answered yesterday to the question that I hoped to be through by 11:30. I interpreted the decision of the Commissione that the questions which I put previously were not to be put again by me.

MR. RASUMOV: That's right.

DR. WEISSGERBER: I beg to ask the court whether or not these questions are admissible.

MR. RASUMOV: Get on and read them, but don't let the witness talk international policy. It really is absolutely irrelevant. Please go on.

BY DR. WEISSGERBER:

Q Did the foreign representatives of the police have an opportunity to become acquainted with all security police measures of the German Police?

A Numerous members of foreign police offices have participated in the lecture courses and the training of the latter school of the German Security Police. During an extended sojourn they had an opportunity to become acquainted with the work of the security police. They sat in the offices an saw how the employees worked.

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Q. Did the police representatives of foreign states make use of the opportunity to visit Concentral Camps?

A. Yes.

Q. Were you ever assigned the job of accompanying such visitors?

A. Now where members of police forces were concerned because it did not fall within my duty, but I have visited with Professor Dr. Burckhardt, president of the International Red Cross. I have accompanied him.

Q. Did you attend the meeting in Munich on November 9, 1938?

A. Yes, a work affairs of the security police had taken place in Vienna, in which participated all the Leiters, the criminal police offices, the Gestapo offices and the SD offices. We went to Munich with these people. A of them participated in the celebration of November 9th.

Q. Can you say anything about what Heydrich stated at a meeting which had called regarding the matters which were to happen?

A. Heydrich had been surprised himself by the demonstration which had taken place that evening. I sat with him in his hotel room when a synagogue was burning down about 50 meters from his hotel. That is what was told us of such a demonstration. Heydrich went to Himmler to inform himself and to get orders, and then translated the orders to the civil servants which were meeting there, orders which came over the teletype late that night. Those were the orders he had received from him. He himself seemed to be very angry at the civil servants, as well as the action itself, and also at the fact that he had not been told about it.

Q. On that evening had the arrests of the 20,000 troops been ordered already?

A. I do not know whether that was contained in the teletype but I believe that teletype contained all the orders of that night.

Q. I am making a difference between the lecture given by Heydrich at the meeting of the Gestapo Leiters and the teletype which was dated 1:20 a.m. of that night, and I want you to tell us whether the talk given by Heydrich corresponded to the teletype or whether the teletype contained much stronger measures than the talk of Heydrich.

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MR. RASUMOV:

Well, I think this comparison is absolutely useless.

M. MONNERAY: Yes, I think the witness has already answered this question.

BY MR. WEISGURBER:

Q. The prosecution charges the Gestapo with having held third degree interrogations. On the basis of your own knowledge can you tell us anything about the directive for that?

A. There were no third degree interrogations since there were no first and second degree interrogations. However, Heydrich had issued a decree approximately in 1937 according to which so-called severe interrogations had to take place in certain cases and under certain conditions. I only heard of that decree after it had been circulated since I was an administrative expert who was not asked regarding matter pertaining to the executive, but I called Heydrich down and I voiced my scruples concerning this decree. He told me that a high authority had approved this measure and that such measures had also been applied by other countries. He said that the United States worked with light effects. He said further that he had reserved for himself the approval of such measures over Germany so that it would be applied only in the most urgent cases. I personally retained my opinion, and for the counter intelligence police where I did have a certain influence I prohibited such measures.

Q. I am showing you Document 1531-PS, USA 248. This document enumerates the following severities: Most simple rations, hard bed, dark cell, depriving of sleep, tiring exercises.

A. These measures go further than the punitive measures permitted by the rules and regulations of German jails.

LT. CMDR. HARRIS: Pardon me, may I see that?

I object to the reading of these documents in that the same is not complete. Counsel read only two or three. I think he should refer to the contents of the document completely in the record. He has left out the punishments, are excessive punishments which may be given among other measures.

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With that in the record I am perfectly willing that the witness answer the question.

DR. WEISGURBER: I would have taken up the problem of flogging later.

BY DR. WEISSGERBER:

Q. Do these penalties go further than the penalties which were used formerly in German prisons. Do they exceed it?

A. The first three penalties as far as I can recall were customary in Germany in regular jails, not others.

Q. What precautionary measures were taken in excess of flogging?

A. The chief of the security police had reserved for himself the right to say what number of beatings should be applied.

Q. As I recall it, an executive official of the criminal police had to be present, and in certain cases a physician also.

Q. In your capacity as the chief of the department administration and la what have you heard of excesses on the part of individual employees.

Q. My office dealt with disciplinary affairs of the Gestapo and the criminal police. This is how I learned about such cases.

Q. To what extent were you informed of excesses?

A. The excesses remained within the limits, both of the Gestapo and the criminal police, within the limits which were normal for any large agency. They were punishments by the normal disciplinary measures. If it was a matter of transgression of the penal measures the cases were transferred to the ordinary courts.

Q. Since when was the Gestapo subordinate to the SS judiciary?

A. As I recall it, only since the beginning of the war. I cannot recall it exactly. I just believe so.

Q. The prosecution charges the Gestapo with having arrested individuals without reason and thrown them into concentration camps. What about that?

A. I can answer this only on the basis of the application which was mad to me personally. I had nothing to do with the factual dealing with such cases. Applications which got through to me almost never stated that the

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individual concerned had done nothing, and that he was arrested without any cause. But there was always an attempt to present the facts as being of less importance and that they should be judged more clemently. This was only a small part of the applications which of course were made to other offices too.

Q. The directive pertaining to the practical application of the law concerning the Gestapo dated 10 February 1936, contains in paragraph 4 the order, and I quote: "The secret police office administers the State Concentration Camps." It is document 2109-PS. What can you tell us about this legal decree?

A This decree corresponded with the wish of the chief of the security police Heydrich, but never was executed because Himmler wished to retain the organizatio as it was. In that organization the Concentral Camps were under a speacial inspector who in turn was immediately under Himmler.

Q Can you tell us something about the way by which the arrested individuals were brought into the Concentration Camps? Should one make a difference between the inmates of the Concentral Camps?

A Yes, the Concentration Camps did not only contain arrested individuals who were taken into protective custody of the police at the time, but since 1937 or maybe even before criminal police sent criminals into these Concentration Camps also. When at the beginning of the war, that is September 1939, the Concentration Camps held approximately 20,000 inmates, at least half of them were criminal cases, and at the very most one-half were political cases. Again the political cases must be separated into short term and long term arrestees. As I recall it, one may figure that 80% of all cases were in the camps only for short terms, and about 20% for a longer term. At the same time the jails and prisons of the German juduciary system contained approximately 300,000 inmates. One-tenth approximately were sentenced for political crimes, so that three times as many people were sentenced for political crimes by the courts as were by the Gestapo.

Q Was the Gestapo concerned in the transfer of criminals into the Concentrat Camps?

A No, that was the sphere of the Reich police office.

Q The protective custody orders were issued by way of AMT V?

A Yes.

IT CMDR HARRIS: You mean -- in order to make the record clear -- you mean in cases of criminal arrests, rather than political arrests?

A Yes, in cases of criminal arrests, Amt V. And Amt V for political arrests.

MR. RASUMOV: I would like you to know that you have five more minutes for your examination.

BY DR. WEISGURBER:

Q Were these criminal cases characterized in any special way?

A As far as I remember they were called security arrests as opposed to the protective custody arrests.

Q Were the protective custody arrestees treated differently? Differently from

the security arrestees?

A Generally I only heard that the criminal cases were employed for labor, than the political arrestees.

Q Do you know anything about the Einstazgruppen?

A Yes.

Q Were these Einsatzgruppen attached to the Gestapo?

A No. Theywere put together on the basis of the mobilation order for employment by the Wehrmacht. Only after the stabilization of the military situation they took up again the connection with the chief of the security police.

Q Did the employees of AMT IV for an opportunity to participate at the meetings of the Reichkabinett or in the meetings of the Ministerial Counsel for the Defense of the Reich? And could they in this way have been informed of the foreign poitical functions of Hitler and the narrow circle around him?

A The time which I can testify for, this was not put into practice. Since approximately 1937 no more Reickkabinett meetings took place, and the Reich Counsel for the Defense of the Reich was created only one day before the opening of the war in 1939.

Q When did you hear in your Amt for the first time of the impending Polish campaign?

A At the beginning, when it started.

Q One question more: Pertaining to the problem of PWs. What do you know about the special formations on the basis of your assignment in France? Special commission who were to separate in PW camps, racial and political undesirables and to execute them?

A I knew nothing about these matters until I heard them in record here.

Q Do you know anything about the Bullett decree?

A I learned of it here when I read about it.

Q Did you know the commando order?

A The military governor of Denmark informed me of the commando order. Such a case never occurred in Denmark.

Q Do you know the Night & Fog decree?

A I knew of it but it was never applied in Denmark.

DR. WEISCHURER: I have no further questions.

THE COMMISSIONER: Let's take a 10 minute recess now.

(A short recess was taken.)

H1013-0052

LT CMDR HARRIS: This is the first time that we had any indication that a member of the SD counsel would call this witness, and I don't see how we can examine him within the allotted time.

MR. RASUMOV: How many questions have you?

DR. GAWLIK: About five questions.

MR. RASUMOV: What do you want to clear up with these questions?

DR. GAWLIK: The Prosecution has, in connection with charges against the SD, repeatedly referred to the Red Book by the witness, regarding which Exhibit I have certain questions.

MR. RASUMOV: All right, but do it as quickly as you can, please.

BY DR. GAWLIK:

Q Your Book "The German Police" also contains references to the German Interior Intelligence Service. Was the SD part of the police?

A No.

Q Page 38 of your book reads: "This task coincides with the decree as elucidated by the Reich Ministry of the Interior all supporting the security police which so far is fulfilled by order of the State."

Was it the duty of the SD to support the security police? Was that the purpose and aim of the SD?

A Since these recent organizations frequently changed their ideas of what belonged within their duties this idea of the purpose of the SD has, too, experienced changes. For a time one saw his task and wanted to fulfill it. Later the SD dropped the so-called research of enemies, and the SD limited itself to the so-called sphere of life. To make up for that the executive of the Gestapo AMT IV created its own Intelligence Service.

Q Can you tell the approximate time when this task ans aim and goal was transformed?

A For the Inland SD the change occurred with the appearence of Mr. Ohlendorf, who initiated the new line around the time of the publication of my book. Since I left the RSHA around 1940 I no longer had an opportunity to observe any change.

Q It, that is the SD, finally has to investigate on political level the work and the connections of the great ideological deathly enemy of national socialism of the German people in order to bring about a straightforward and

effecting combat struggle against them. . . Is the same true of these passages?

A This task substantially was assigned to AMT V11, which was dissolved after the publication of my book.

Q Do I understand you correctly, you want to say that AMT 111 never had this duty?

A No, if my memory serves me right, AMT 111 has made its task the exploration of the German sphere of life.

MR RASUMOV: Begin our cross-examination now, please.

H1013-0054

CROSS EXAMINATION

BY LT CMDR HARRIS:

Q We are very short in time, and for that reason I am going to refer specifically to your writings and I hope you will cooperate by answering as correctly and as quickly as you can without hesitation.

What was the date of your first edition "The Deutsch Polizei"?

A 1940.

Q How many editions w re published?

A Two editions.

Q You showed the book to Heydrich and Himmler in connection with the first publication?

A Yes, sir.

Q And the second publication, askes only minor changes?

A Yes, sir.

Q And as a matter of fact the only criticism that Himmler had for the book he thought you were a little bit too outspoken in setting forth the task of the Security Police?

A I cannot even recall such criticism.

Q Already ...*** that you had written an article *** Political Police in the Third Reich for publication in the book by Dr, Hans Frank?

A Yes, sir.

Q And that book was published in 1937?

A Yes, I think it was an annual publication if I am not mistaken.

Q In any event, do you remember the article you wrote which appeared in the 1937 edition?

A I cannot recall exactly, but they tell me it is 1937.

Q I am going to call your attention to a few quotations from this article to show that the views that you had expressed, the same views in 1936 or 1937 which were made public, and which you then re-expressed in your final publication, and it is a significant fact about this, that when you were making these statements you had a very responsible position in the Reich Ministry of the Interior with respect to the Security Police. Now, page 420, you discussed the task and missions of the political police. This is what you say: "The task of a political police in the sense of the national socialist conception of this institution has been formulated best so far in Section 1 of the Prussian Law concerning the secret state police of 10 February 1936."

Q The Tribunal knows what that provision is so I won't read it. I continue quoting:

"This formulation also outlines the task of Political Police Systems in other German countries for which this task assignment is to be concluded from the National Socialist conception of a Political Police, since a legal formulation is mostly missing." You wrote that and that was true, wasn't it?

A Yes.

Q Continuing quoting from page 421: "All attempts dangerous to the State are subject to the activity of the Political Police. 'Dangerous to the State' is more than 'hostile to the State' and includes not only undertakings with programs hostile to the State but also all attempts - no matter what their aim- which in their effects endanger the State. Not the State in its outward organic appearance by the tasks of the leadership in the sense of the National Socialist idea is the object of protection." That was correct, wasn't it?

A Yes.

Q No the point to that expression that I want to invite your attention to Dr. Best is this: You recognized, I am sure, the criminality of putting 20,000 people in concentration camps just because they are Jews, don't you?

A I have expressed this measure as a non-police measure.

BY THE COMMISSIONER:

Q What do you call a non-police measure?

A A measure which does not emanate from the police top authority or the police function.

BY LT CMDR HARRIS:

Q But you did not answer the question, which was that you do recognize that the placing of 20,000 people in concentration camps just because they are Jews is criminal, don't you believe that?

A It depends upon whether this question is to be answered by a moral or legal pointeof view.

BY THE COMMISSIONER:

Answer the question in brief form, yes or no.

A From our point of view, yes. From the legal aspect I would have to add a sentence.

H1013-0057

BY LT CMDR HARRIS:

Q Go ahead, let us see what your legal attitude is?

A I stated yesterday that the police law of the National Socialist State can be explained only on the basis of National Socialist Ideal State. Of course this holds true for the law in general, so that if the National Socialist State concept of state is ruling, that question at least must be asked whether such a declaration of will or measure of the state leadership is not the form of law for the number of this state.

BY THE COMMISSIONER:

We do not allow you to make any speech on legal matters. What we want you to answer is the question of the Prosecution about the 20,000 people who were put in concentration camps.

A It depends upon whom did it and I want to state that the executive organs in any case which could not avoid executing this order at least were in the so-called self-defence of the sense of penal law.

BY LT CMDR HARRIS:

Q I am sure that the defense counsel will agree with me that the Gestapo or at least the personnel of the Gestapo, were responsible for lining up these people and sending them to the concentration camps where they were murdered. You certainly would recognize that the murder of people because they were Jews is certainly criminal, even though it was ordered by Hitler or some person in a high state? Yes, a crime of a responsible person and that is true of all those crimes and the point that I am stressing is that you have on many occasions publicly stated that the purpose of the police in the National Socialist State is to carry out the will of the National Socialist leadership?

A That is not correct. I have stated that the object to be protected is the state in its National Socialist forms, but that the police is not to be an executive organ arbitrarily selected for any task whether or not it is a police function.

Q I have just read to you what you said in 1937 and now I'll pass to something else you said. This quotation appears on page 424:

"The duties of the political police and the necessary means for their performance are not chosen freely but are prescribed by the foe. Just as the operations of an army against the outward enemy and the means to fight this enemy

cannot be prescribed, so the Political Police also must have free hand in the choice of the means necessary at times to fight attempts dangerous to the State. And two lines, later: "And it thus has the right to take all necessary measures for this fight as long as there are not any expressly contrary regulations." Now this concept of the means which the Gestapo would use in theNational Socialist State as an unregulated one is the reason why the Gestapo was authorized to throw people into the concentration camps without judicial proceedings and to use third degree interrogations and to take other similar action from time to time?

A I again want to point out that the arrest of 20,000 Jews in November of 1938 was not wanted by the police and was not considered necessary by the police consequently this phrase which was quoted here does not cover this event at all What I mean is that the police measures have to be in accordance with the methods of the enemy, for instance, the conspiracy methods, tobe able to combat the dangers arriving. It was a matter of course, so much so that I did not think it necessary to mention that the individual employee could not arbitrate, but that a directive of the general kind had to be issued which were appropriat to combat these methods of the enemy.

Q Yes, but you say we are not talking about the individual member of the police who may have done something arbitrarily we are talking about the Gestapo itself as an organization which is, as you have said in your writings, an almost complete text concerning the means which it would use to carry out its tasks and terms for protecting the leadership of the National Socialist State?

A I do not understand the sense of the question.

Q I'll read the question again to see if you understand it.

(Question read again in German).

A Within the framework of orders and directives which were issued through channels.

Q Let me call your attention to what you said in this article on page 425: "According to kind and purpose the measures taken by the Political Police can logically be subject to a check only by their own channels of adminstrative supervision." Then follows you explanation of the legal reasons for this statement in Prussia and the other German countries. That was true, wasn't it?

A Yes, that was the existing State of law. The supervision went to all channels up to and including Hitler.

H1013-0058

H1013-0059

Q So long as the activities of the Gestapo were consistent with the maintaining of Hitler and his group in power, the Gestapo had a pretty generally free hand in political police circles within the so-called Third Reich?

A I again have to repeat, within the framework of orders and directives every area was handled differently.

Q You say that this provision in the decree that the Gestapo was to administer the concentration camps never came into effect and I want to call your attention to the statement you made in this article. This is what you said on page 430: "The Secret State Police" administers the State Concentration Camps through the Inspector of the Concentration Camps who is affiliated with the Office of the Secret State Police." Do you remember making that statement, Doctor?

A Yes, it actually was not executed in practice. This was written obviously at a time when the Chancellor of Secret State Police wanted to have the concentration camps subordinate to him but it can be proven by many important documents that Himmler has never fulfilled this wish.

Q I want to call your attention to this statement which you made in your book: "As long as the police carries out the will of the leadership it is acting legally. Should it overstep the leadership then it is no longer a police matter, but it is considered an act of a breach of duty by the police." Do you remember making that statement?

A Yes, this refers to my theory which is mentioned in the book. That on the basis of the concept of the National Socialist State right is made when the State leadership with the intention of making a law in a certain sphere voices its will. The willmust be present to make police law according to which the Police has to act. An individual order referring to a matter which is not a matter of police law does not come within this paragraph.

Q You also state in your book what the requirements were of police among which you include fitness and membership in the NSDAP or one of its branches. That is correct, isn't it?

A I do not believe that I have spoken of membership but perhaps only of the fitness for it. As a matter of fact there was no such condition for being employed by the police.

H1013-0060

Q The fact is that these were requirements, weren't they?

A No, they were not requirements.

Q Well, they are on page 83 of the book. It begins right under large paragraph A.

A In practice it was not done at that time. Whether at that time it was an actual requirement or only a plan I do not know. Of course I have described the development of the police force the way it was just happening at that time. There are points in this book which merely express the tendency and not the actual state of affairs and I again want to repeat that this book is merely a private piece of work.

BY THE COMMISSIONER:

Q What do you mean, a private piece of work?

A A theoretical work by my private self.

BY LT. COMDR. HARRIS:

Q I want to invite your attention to a quotation on page 109. Before I read I want to ask you if it isn't true that in the various schools that the members of the Gestapo were trained in the National Socialist State ideology and also in the SS concepts?

A To the same extent in which it happened in every state school and in every civil service school in Germany. I want to point out that the so-called leader school of the security police, which is theprofessional school for all new candidates, did not even employ special teachers for criminology and ideology ideas, but the criminology experts also had to teach that on the side.

Q As a matter of fact, ideology training of the police was handled by the SS?

A No, not people outside of the police. I do not know whether the people that were already at that school were members of the SS; could only have been a part of it because I have already said that out of 20,000 fit men, 3,000 came under the so-called assimilation decree when war broke out.

Q The reason I am asking you this is to bring out the fact that irrespective of the conception of the ideology training of the Gestapo members was the same as that in the SS leadership. Isn't that true?

H1013-0061

A Only the new candidates received ideology instruction. The old officials no longer received instruction and that was its larger half.

Q I'll just read in the record what you said in your book on page 109: "The ideology training of the members of the police is taken care of by and is conducted uhiformly by an office of the SS leadership."

That is not a matter of opinion, that is a matter of fact, were you telling the truth then?

A No. I have read only of a planning which was just coming to life. Himmler wanted the so-called settlement of the SS which at the same time dealt with these proposals of training. Himmler wanted this office to submit material for training to the police. When at the end of May 1940 I left the security police nothing like that had arrived.

Q I want to ask you questions about this so-called administrative and executive members of the Gestapo. The administrative members performed essential functions for the organization as a whole, didn't they?

A They have fulfilled the functions which I submitted yesterday. That is to say all functions pertaining to personnel and the real needs of the organization.

Q The point I am making is that the so-called executive members could not have carried out their functions unless there was somebody to perform the administrative functions?

A Just like the other officials he has to receive a salary.

Q It is also true that within the Gestapo men were transferred around from office to office, from function to function?

A Yes, but only within their qualifications. One could not have the administrative official fulfil the duties of an executive.

Q Exactly. However, if a man was a member of the so-called border police he could just as well perform executive functions there as in a Gestapo regional office, couldn't he?

A Yes, that was very possible.

Q As a matter of fact, there were men transferred back from the border police to other points?

A No, at least until the outbreak of the war only in one direction. One could not transfer anyone away from the border police. Also

H1013-0062

the Abwehr of the police remained as is because one could not spare the specialists.

Q Do you know of any case where a member of the police received disciplinary action because he refused to accept a transfer?

A No, I do not recall a single case.

Q You do not recall what could have happened. Perhaps the worst was that he could have lost his job, was that so?

A That would have been the normal thing, but if he had taken a demonstrative action police would have been taken against him.

Q Did I understand you to say that the members of the border police were taken from the Gestapo itself?

A No, to the largest extent, partly from the Gestapo people, and partly from new candidates. At the outbreak of the war it was about fifty-fifty.

Q You knew with respect to this order of the third degree interrogation that the reason it was put into effect was because the various Gestapo offices were carrying out unregulated third degree tactics on their own?

A No, that could not possibly have been the reason because Heydrich mentioned as a reason to me that during that period conspiratorial associations had been found and in order to discover them it was necessary to catch up to the next man as quickly as possible.

Q Let me call your attention to Document of 1942 which I want to show you. Perhaps the point of distinction is that it concerned the 3rd degree methods in occupied territory. This document starts out as follows: "In view of the variety of methods used to date in Cracov and in order to avoid excesses and also to protect the commander of the security police and the SD. Then follow the same regulations which we have been discussing. That looks like they were trying to prevent excesses which had taken place previously in interrogations?

A I cannot make any statement in regard to that since I had nothing to do with security police since I left.

Q You did know up to the time you left, that it was common practice to put hardened prisoners in concentration camps together with political prisoners? The answer is yes?

A Yes.

H1013-0063

Q And you also know that these hardened criminals who were commonly known as Kapo maintained much of the discipline within the camp by use of brute force on political prisoners, didn't you?

A No, I knew nothing about it since I was completely ignorant of the organization and administration details inside the concentration camp. I once received a report which was interesting to me around the end of 1937 or the beginning of 1938. I personally saw to it that the former Dr. Miehrendorf was dismissed from a concentration camp and at that time I have discussed matters pertaining to arrest with Dr. Miehrendorf. He told me he had studied philosophy and history in the camp and that he had been doing some writing, a play. His words indicated to me that the inmates of Buchenwald were not being treated badly.

Q In other words, that is the extent of your investigation of conditions in concentration camps? Since the conditions in concentration camps were the responsibility of the inspector you did not think you had to acquaint yourself?

A If I would have received complaints which would have made me aware of bad situations I would have, no doubt, attempted -- though I neither had the competency or the power to improve matters, but among all the personal obligations

H1013-0064

which I had received at that time there was no description of such miserable situations from the concentration camps even when release from a concentration camp was petitioned for. I had no motive to mix into these things which did not come within my official duties.

Q. That is the same reason why Heydrich did not investigate conditions in the concentration camps or the members of the Gestapo, because it was not within their jurisdiction?

A. I do not know whether or not Heydrich had at his disposal other records than I hadn. As I know Heydrich and his temperament I think that for reasons of his influence he would have undertaken something if an opportunity had offered itself. I assume that since the outbreak of the war he did not have the chance to interest himself in these things.

Q. Dr. Best, I want to ask you just one or two additional questions and I am basing these on the very interesting statements you made in your book about the fact that after the National Socialist revolution it was no longer a question of law but a question of faith whether the leadership laid down the right rules and that misuse of this great power would, because of violations of laws of life, be punished in history by fate itself. Yesterday you said that you were right when you wrote that prophetic statement and I take it that in making that statement you acknowledged that the Nazi leadership did violate the laws of life and for that reason fate has brought punishment?

A. Yes, this leadership has sinned against the laws of life and consequently fate has punished.

Q. Your position is, as I gather, that although the Gestapo was a principal, if not the principal agency, for carrying out the will of this leadership, it may be excused of responsibility as a criminal organization because after all, all it did as an organization was to carry out the will of the Nazi leadership?

A. No. I am being misunderstood. What I did say was this. I do not wish to argue whether the orders of decrees or directives issued by the leadership are crimes in the sense of the penal code, but it is the first time in history that a sovereign government is being judged on the basis of penal law. The

H1013-0065

only thing that I wish to bring forth for the executive organs, that the individual executive organs must be conceded the basis of not being punishable because of a state of emergency under which they acted. The Gestapo only was an executive instrument because of those measures which today and from a moral point of view are criticized as crimes, did not arrive from the police authorities but were ordered by higher authorities.

Q. Yes, but were carried out for the purpose of serving the will of the leadership, which as you said were the primary tasks of the Gestapo?

A. No, I say that it was a non-police measure which was outside of its real task. They had to fulfill this or could not omit fulfilling it, otherwise they would have paid for it with their lives.

No further question.

MR. MONNERAY: I have a few questions, but I think it will be advisable to adjourn now.

THE COMMISSIONER:

The commission will adjourn until to-morrow morning at 1000 hours.

The commission adjourned at 1310 hours.

The foregoing is a true and correct transcript of the testimony of DR. BEST, taken on 6 July 1946.

Tiilani A. Ahuna
Reporter

Geneveve Biolsi
Reporter

Evelyn M. Roberts
Reporter

CERTIFIED TO:

Rasumor
Commissioner